

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS  
PRODUCTS LIABILITY LITIGATION

No. 2:15-MD-02641DGC

**FIRST AMENDED SHORT FORM  
COMPLAINT**

**DENISE SMITH, INDIVIDUALLY and  
on behalf of the Estate of RONALD  
SMITH**

Plaintiff(s) named below, for their Complaint against Defendants named below,  
incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc. 364)

Plaintiff(s) further show the Court as follows:

1. Plaintiff/Deceased Party:

Ronald Smith

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of  
consortium claim:

n/a

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian,  
conservator):

Denise Smith; Representative

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at  
the time of implant:

n/a

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury:

New York

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

New York

7. District Court and Division in which venue would be proper absent direct filing:

United States District Court for the Northern District of New York

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: \_\_\_\_\_

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Vena Cava Filter

☐ G2<sup>®</sup> Express Vena Cava Filter

☐ G2<sup>®</sup> X Vena Cava Filter

☐ Eclipse<sup>®</sup> Vena Cava Filter

☐ Meridian<sup>®</sup> Vena Cava Filter

☒ Denali<sup>®</sup> Vena Cava Filter

☐ Other: \_\_\_\_\_

11. Date of Implantation as to each product:

10/10/2013

12. Counts in the Master Complaint brought by Plaintiff(s):

☒ Count I: Strict Products Liability – Manufacturing Defect

☒ Count II: Strict Products Liability – Information Defect (Failure to Warn)

☒ Count III: Strict Products Liability – Design Defect

☒ Count IV: Negligence - Design

☒ Count V: Negligence - Manufacture

☒ Count VI: Negligence – Failure to Recall/Retrofit

☒ Count VII: Negligence – Failure to Warn

☒ Count VIII: Negligent Misrepresentation

☒ Count IX: Negligence *Per Se*

☒ Count X: Breach of Express Warranty

☒ Count XI: Breach of Implied Warranty

☒ Count XII: Fraudulent Misrepresentation

- 1           X     Count XIII: Fraudulent Concealment
- 2           X     Count XIV: Violations of Applicable New York (insert state)
- 3                 Law Prohibiting Consumer Fraud and Unfair and Deceptive Trade
- 4                 Practices
- 5           ☐   Count XV: Loss of Consortium
- 6           ☐   Count XVI: Wrongful Death
- 7           ☐   Count XVII: Survival
- 8           X     Punitive Damages
- 9           ☐   Other(s): \_\_\_\_\_ (please state the facts supporting
- 10                this Count in the space immediately below)
- 11                \_\_\_\_\_
- 12                \_\_\_\_\_
- 13                \_\_\_\_\_
- 14                \_\_\_\_\_
- 15                \_\_\_\_\_

16

17       13.   Jury Trial demanded for all issues so triable?

- 18           X     Yes
- 19           ☐   No
- 20
- 21
- 22

1 RESPECTFULLY SUBMITTED this 19 day of November, 2017.

2 TAUTFEST BOND, PLLC

3 By: s/Monte Bond  
4 Monte Bond  
5 Texas Bar No. 02585625  
6 5151 Belt Line Road  
7 Suite 1000  
8 Dallas, TX 75254  
9 214.617.9980 (phone)  
10 214.617.9986 (fax)

11 Attorney for Plaintiff

12 I hereby certify that on this 19 day of December, 2017, I electronically transmitted  
13 the attached document to the Clerk's Office for filing using the CM/ECF System filing and  
14 transmittal of a Notice of Electronic Filing.

15 s/Monte Bond  
16  
17  
18  
19  
20  
21  
22